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35. (New) The method of claim 31, further comprising discarding the message if the evaluation indicates that the recipient is unavailable.

36. (New) The method of claim 31, further comprising directing the message to a destination selected based on the evaluation.--

### REMARKS

Reconsideration of the subject application is requested in view of the preceding amendments and the following remarks. By this Amendment, claims 1-16, 23, and 26-30 are canceled without prejudice, claims 18, 19, 24, and 25 are amended, and new claims 31-36 are submitted for consideration. Upon entry of this Amendment, claims 17-22, 24-25, and 31-36 are in the application.

The drawings are objected to under 37 C.F.R. § 1.83(a) and the application is amended to include Figures 14A-14B. Support for Figures 14A-14B can be found in the application at, for example, page 2, lines 16-23, page 13, lines 23-26, and claims 17-25. No new matter is introduced. Withdrawal of the objection to the drawings is requested.

The specification is amended to correct an obvious typographical error. No new matter is introduced.

New claims 31-36 are submitted for consideration. Support for new claims 31-36 can be found in the specification at, for example, page 13, lines 23-26 and claims 17-25. No new matter is introduced.

Claim 25 stands rejected as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Claim 25 is amended for clarification and withdrawal of this rejection is requested.

Claim 24 was indicated as allowable if rewritten in independent form to include all the features of its base claim and any intervening claims. Claim 24 has been so amended and is therefore in condition for allowance.

Claims 17-20 and 22 stand rejected as allegedly anticipated by Aravamudan et al., U.S. Patent 6,301,609 ("Aravamudan"). This rejection is traversed. Claim 17 recites a messaging method that comprises selecting a message for delivery to at least one selected recipient.

Application presence data associated with the recipient is evaluated and the message is processed based on the evaluation. Aravamudan does not teach or suggest such a method. Aravamudan discloses a unified messaging solution that includes communicating a user's initial network use to a Communication Services Platform (CSP). A user logs on to a network, and client premises equipment (CPE) software detects network connectivity and generates a message indicating a user's online status. Col. 6, lines 64-66 and col. 7, lines 1-20. The CPE device continuously monitors for user interaction with a user interface of the CPE device based on user typing on a keyboard or a motion detector associated with a mobile device. Col. 7, lines 49-55. A Communication Services Platform (CSP) performs a check to determine whether a user is registered online or is off-line. Col. 8, lines 51-57. While Aravamudan discloses determining whether a user is online or off-line, Aravamudan is silent concerning evaluating application presence data indicative of a user presence with respect to an application as recited in claim 17. Aravamudan does not teach or suggest determining a user application presence, only if a user is connected to a network. Because Aravamudan does not teach or suggest application presence data, claim 17 and dependent claims 18-22 are properly allowable over Aravamudan.

Claims 23 and 25 stand rejected as allegedly anticipated by Glenn et al., U.S. Patent Application Publication 2002/0021307 (Glenn). This rejection is traversed. The rejection of claim 23 is moot in view of the cancellation of this claim without prejudice. Claim 25 as amended recites an instant messaging apparatus that comprises means for obtaining user presence data from at least one user and means for displaying the user presence data. A message preparation indicator is displayed, and a means for delivering the message to the at least one user based on the user presence data is provided for delivering the message. Glenn does not teach or suggest such an instant messaging apparatus. Instead, Glenn discloses a method for utilizing online presence information. A presence engine contains software configured to determine when a user begins and ends using the network, and contains a list of users presently connected to the network. Paragraph 19. Glenn does not teach or suggest a messaging apparatus that comprises means for obtaining user presence data from at least one user, means for displaying the user presence data, and means for displaying a message preparation indicator as recited in claim 25, and claim 25 is properly allowable over Glenn.

Claim 21 stands rejected as allegedly obvious in view of Aravamudan. This rejection is traversed. Claim 21 is properly allowable as dependent from allowable claim 17. Claim 21


recites additional features that are neither taught nor suggested by Aravamudan. Claim 21 recites a messaging method that includes discarding a message if an evaluation of application presence data indicates that a recipient is unavailable. The Office action admits that Aravamudan does not disclose discarding a message if a recipient is unavailable. Instead, the Office action contends that a status of selected buddies as identified by a user (one or Aravamudan's important event types) corresponds to a message, and that one of ordinary skill in the art would recognize that there is no point in saving such a message if the recipient is unavailable. However, in the system of Aravamudan, a "buddy" can be defined that is unable to determine a real presence, i.e., to determine if a user is online or off-line. In such a system, messages should not be discarded based on an apparent user status, as a user can be online, but appear unavailable. Col. 10, lines 16-21. Thus, one of skill in the art would not recognize that a message can be discarded if a recipient is unavailable. Accordingly, claim 21 is properly allowable over Aravamudan.

New claim 31 recites a messaging method that comprises preparing a message for delivery to at least one selected recipient and evaluating application presence data associated with the selected recipient. A message preparation indicator is transmitted to the selected recipient based on the evaluation. Neither Aravamudan nor Glenn teaches or suggests transmitting a message preparation indicator, and claim 31 and dependent claims 32-36 are properly allowable over any combination of Aravamudan and Glenn.

In view of the preceding amendments and remarks, claims 17-22, 24-25, and 31-36 are in condition for allowance and action to such end is requested.

Respectfully submitted,

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**Marked-up Version of Amended Claims and Specification  
Pursuant to 37 C.F.R. §§ 1.121(b)-(c)**

In the specification:

Please replace the section titled "Brief Description of the Drawings" with the following replacement section:

**--Brief Description of the Drawings**

FIG. 1 is a block diagram illustrating a communication system that includes mobile stations and a presence server configured to provide user presence data.

FIG. 2A is a diagram illustrating capture of user application presence data.

FIG. 2B is a diagram illustrating instant messaging in a communication system similar to the communication system of FIG. 1.

FIG. 3 is a block diagram illustrating a communication system that includes a wireless network having mobile stations, desktop stations, and a presence server configured to provide user presence data.

FIG. 4 is a diagram illustrating communication between a mobile browser and a desktop client in a communication system similar to that of FIG. 3.

FIG. 5 is a block diagram illustrating a communication system that includes a wireless network and a fixed network, wherein the wireless network includes a presence server.

FIG. 6A is a diagram illustrating communication between a wireless network desktop client and a fixed desktop client in a communication system similar to the communication system of FIG. 5.

FIG. 6B is a diagram illustrating communication between a mobile browser and a fixed desktop client in a communication system similar to the communication system of FIG. 5.

FIG. 7 is a block diagram illustrating a communication system that includes a wireless network having mobile clients of a fixed network configured to communicate with the fixed network via the wireless network.

FIG. 8 is a diagram illustrating instant messaging between a fixed desktop client and mobile browser executed by a mobile client of the fixed network in a communication system similar to the communication system of FIG. 7.

FIG. 9 is a block diagram illustrating a communication system that includes a wireless network having mobile clients of a fixed network configured to communicate with the fixed network via the wireless network.

FIG. 10 is a diagram illustrating instant messaging between a fixed desktop client and mobile browser executed by a mobile client in a communication system similar to the communication system of FIG. 9.

FIG. 11 illustrates delivery of an instant message.

FIG. 12 is a block diagram of communication system that includes three interconnected networks.

FIG. 13 is a block diagram of a communication system that includes a presence repository and an activity repository.

FIG. 14A is a diagram illustrating a messaging method that includes selecting a message for delivery to at least one selected recipient, evaluating application presence data associated with the recipient, and processing the message based on the evaluation.

FIG. 14B is a diagram illustrating a messaging method that includes displaying user presence data for a list of recipients, delivering a message based on the displayed user presence data, and displaying a message preparation indicator associated with at least one recipient, wherein the message preparation indicator is associated with message preparation by the at least one recipient.--

Please replace the paragraph that begins on page 4, line 26 with the following new paragraph:

--As shown in FIG. 1, instant messaging can be provided between the mobile clients 102, 104 based on user presence data supplied by the presence server 108. For example, initiation of an application by the mobile client 102 is communicated to the presence server as a user presence "available." After the application is initiated, subsequent user presence data is used to update the presence server data to other presence conditions, such as, unavailable, reachable,

unreachable, or others. For example, additional uses of the application can produce presence updates (such as log off) that are communicated to the presence server 108. The application can be configured to provide presence updates at regular or random time intervals. In wireless networks based on, for example, cellular digital packet data (CDPD), application presence data can be limited by CDPD sleep mode interval. Cell phones are typically configured to enter a so-called "sleep mode" after a predetermined time interval to preserve battery life, and presence data may not reflect entry into sleep mode. Alternatively, entry into sleep mode can be configured to provide an associated presence data update to the presence server. Alternatively, the user can select to use network presence data to supplement or replace user application presence data.--

In the claims:

Please amend claims 18, 19, 24, and 25 as follows:

18. (Amended) The method of claim 17, further comprising obtaining the application presence data from a presence repository.

19. (Amended) The method of claim 17, further comprising [,] obtaining the application presence data from an application server.

24. (Amended) **[The method of claim 23, further comprising]** A messaging method, comprising:

displaying user presence data for a list of recipients;

delivering a message based on the displayed user presence data; and

displaying a message preparation indicator associated with at least one recipient, wherein the message preparation indicator is associated with message preparation by the at least one recipient.

25. (Amended) An instant messaging **[method]** apparatus, comprising:  
means for obtaining user presence data from at least one user; **[and]**  
means for displaying the user presence data from the at least one user;

means for displaying a message preparation indicator associated with the at least one user; and

means for delivering a message to the at least one user based on the user presence data.